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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,304	05/31/2001	Balagurunathan Balasubramanian	Sprint IDF 1595 (4000-040	1603

7590 06/14/2004

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EXAMINER	
PUENTE, EMERSON C	
ART UNIT	**PAPER NUMBER**
2113	5

DATE MAILED: 06/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/871,304	BALASUBRAMANIAN ET AL.	
	Examiner	Art Unit	
	Emerson C Puente	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 April 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *19-30* is/are allowed.

6)☒ Claim(s) *1-10,13,17 and 18* is/are rejected.

7)☒ Claim(s) *11-12 and 14-16* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

13)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

a) ☐ The translation of the foreign language provisional application has been received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

This action is made **FINAL**. Claims 1-30 have been examined.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 6-10, 13, and 17 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by US Patent No. 6,249,886 of Kalkunte et al. referred hereinafter "Kalkunte".

In regards to claim 1, Kalkunte discloses a computer implemented method for testing and monitoring applications, the method comprising:

sending a first test signal to elicit a response from a first element of an application. Kalkunte discloses issuing commands (test signal) to the system under test (application) and the system under test may include one or more servers (elements) (see figure 1 and column 2 lines 47-50).

monitoring the application for the response to the first test signal (see column 2 lines 50-55)

checking the response to the first test signal (see column 2 lines 50-55).

sending a second test signal to elicit a response from a second element of the application, wherein the second element is independent and distinct from the first element (see figure 1 and column 2 lines 47-50)

monitoring the application for the response to the second test signal (see column 2 lines 50-55)

checking the response to the second test signal (see column 2 lines 50-55)

reporting the results of checking the responses to the first and second test signals (see column 5 lines 55-60)

In regards to claim 2, Kalkunte discloses

wherin the application is monitored in b) and e) by a monitoring program;

wherein monitoring b) and e) further comprises monitoring the time at which the test signal is sent and monitoring a response time from the sending of the test signal to the receiving of the response from the test signal

wherein the results comprise the response time from the sending of one of the test signal to the receiving of the response to that test signal by monitoring program (see column 3 lines 55-60) and the time at which that test signal was sent (see column 6 lines 25-28).

In regards to claim 3, Kalkunte discloses wherein the reporting the results comprises sending notification based on the presence of predefined results (see column 11 lines 5-23 and column 12 lines 55-60)

In regards to claim 6, Kalkunte discloses wherein reporting results comprises recording the results in a datastore (see figure 11 item 422 and column 9 lines 50-52 and column 12 lines 14-16)

In regards to claim 7, Kalkunte discloses wherein recording the results in a datastore comprises storing the results in a text file (see figure 11 item 422 and column 9 lines 50-52).

In regards to claim 8, Kalkunte discloses wherein recording the results in a datastore comprises storing the results in a relational database (see column 12 lines 14-16)

In regards to claim 9, Kalkunte discloses wherein reporting the results comprises:

sending notification based on the presence of the predefined results (see column 11 lines 5-23 and column 12 lines 55-60); and

recording the results in a datastore (see figure 11 item 422 and column 9 lines 50-52)

In regards to claim 10, Kalkunte discloses a computer implemented method for testing and monitoring applications, the method comprising:

sending a first test signal to elicit a response via a first channel of an application. Kalkunte discloses issuing commands (test signal) to the system under test (application) and the system under test may include one or more servers. It is inherent each server has a channel wherein it connects to other devices, thus indicating sending a first test signal to elicit a response from a first channel of an application (see figure 1 and column 2 lines 47-50).

monitoring the application for the response to the first test signal (see column 2 lines 50-55)

checking the response to the first test signal (see column 2 lines 50-55).

sending a second test signal to elicit a response via a second channel of the application, wherein the second channel is independent and distinct from the first channel Kalkunte discloses issuing commands (test signal) to the system under test (application) and the system under test may include one or more servers. It is inherent each server has a channel wherein it connects to other devices, thus indicating sending a second test signal to elicit a response from a second channel of an application (see figure 1 and column 2 lines 47-50).

monitoring the application for the response to the second test signal (see column 2 lines 50-55)

checking the response to the second test signal (see column 2 lines 50-55)

reporting the results of checking the responses to the first and second test signals (see column 5 lines 55-60)

In regards to claim 13, Kalkunte discloses a computer implemented method for testing and monitoring applications, the method comprising:

sending a first test signal to elicit a response from a first object of an application. Kalkunte discloses issuing commands (test signal) to the system under test (application) and the system under test may include one or more servers (objects) (see figure 1 and column 2 lines 47-50).

monitoring the application for the response to the first test signal (see column 2 lines 50-55)

checking the response to the first test signal (see column 2 lines 50-55).

sending a second test signal to elicit a response from a second object of the application, wherein the second object is independent and distinct from the first object (see figure 1 and column 2 lines 47-50)

monitoring the application for the response to the second test signal (see column 2 lines 50-55)

checking the response to the second test signal (see column 2 lines 50-55)

reporting the results of checking the responses to the first and second test signals (see column 5 lines 55-60)

In regards to claim 17, see basis for rejection for claim 1. Claims 17 is simply a computer program product comprising a computer readable medium that stores computer codes for implementing the method set forth in claim 1, and therefore is necessarily included in the teachings of Kalkunte.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. § **103(a)** as being unpatentable over Kalkunte in view of US Patent No. 6,449,739 of Landen et al. referred hereinafter "Landen".

In regards to claim 4 and 5, Kalkunte fails to disclose wherein sending notification comprises sending a page or an email.

However, Landen discloses notifying by a pager or an email (see column 8 lines 10-15).

It would have been obvious to one of ordinary skill in the art at the time the invention was made wherein sending notification comprises sending a page or an email. A person of ordinary skill in the art would have been motivated to make the modification because Kalkunte discloses sending notification and Landen discloses emailing and paging as appropriate and known communication methods for notification (see column 8 lines 10-15).

Claim 18 is rejected under 35 U.S.C. § **103(a)** as being unpatentable over Kalkunte in view of US Patent No. 5,920,722 of Damron et al. referred hereinafter "Damron".

In regards to claim 18, Kalkunte fails to disclose wherein the computer readable medium is a code representation embodied in a carrier wave.

Damron teaches program code can be embodied as a computer data signal in a carrier wave, indicating wherein the computer readable medium is a code representation embodied in a carrier wave (see column 5 lines 20-25)

It would have been obvious to one of ordinary skill in the art at the time the invention was made wherein the computer readable medium is a code representation embodied in a carrier wave. A person of ordinary skill in the art would have been motivated to make the modification because having a data signal embodied in a carrier wave, as per teachings of Damron, constitutes as a known implementation of the computer program (see column 5 lines 20-25).

Allowable Subject Matter

Claim 11-12 and 14-16 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 19-30 are allowable over the prior art of records.

Examiner's Statement of Reason for Allowance

The following is an Examiner's statement of reasons for the indication of allowable subject matter: Claims 19, 21, 23, 25, and 27 are allowable over the prior art of record because the Examiner found neither prior art cited in its entirety, nor based on the prior art, found any motivation to combine any of the said prior arts.

The reason for allowance for claim 19 is the inclusion of sending a first test signal via a send channel of a messaging service to elicit a response and sending a second test signal via a receive channel of the messaging service to elicit a response in conjunction with the rest of the limitation set forth in the claim.

The reason for allowance for claim 21 is the inclusion of sending a first test signal via a publish channel of a publish/subscribe service to elicit a response and sending a second test signal via a subscribe channel of the publish/subscribe service to elicit a response in conjunction with the rest of the limitation set forth in the claim.

The reason for allowance for claim 23 is the inclusion of sending a first test signal to elicit a response from a register object of a naming service and sending a second test signal to elicit a response from a resolve object of the naming service in conjunction with the rest of the limitation set forth in the claim.

The reason for allowance for claim 25 is the inclusion of sending a first test signal to elicit a response from an access server of an authentication and authorization system and sending a second test to elicit a response from a register server of an authentication and authorization system in conjunction with the rest of the limitation set forth in the claim.

The reason for allowance for claim 27 is the inclusion of sending a first test signal to elicit a response from a first object of a transaction service, wherein the first object is selected from a first member of the group consisting essentially of an OTS daemon, a completion daemon, a recovery daemon, and a transaction daemon and sending a second test signal to elicit a response from a second object of a transaction service, wherein the second object is selected from a second member of the group consisting essentially of an OTS daemon, a completion daemon, a recovery daemon, and a transaction daemon in conjunction with the rest of the limitation set forth in the claim.

The remaining claims, not specifically mentioned, are allowed because they are dependent upon one of the claim mentioned above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance.

Response to Arguments

Applicant's arguments filed April 2, 2004 have been fully considered but they

are not deemed to be persuasive.

In response to applicant's argument on page 17 of remarks, "...By instead testing and monitoring multiple elements of the same application, problems may be spotted which would otherwise have been initially overlooked, and when problems arise, a review of the multiple tested elements may help more quickly isolate the problem. Kalkunte does not appear to provide this insight or the teaching to suggest it. The independent claims presented, by comparison specifically require the testing of a second element of the same application or a second channel of the same application. Neither does the other art cited in the Office Action address this understanding," examiner respectfully disagrees.

The claims cites eliciting a response from a first and second element of an application. Applicant further discloses in Remarks, "... an application provides a service, be it a specific task or set of related specific tasks"(see page 14). Kalkunte discloses a system under test comprising a plurality of servers. He further states these servers, for example, can be HTTP (Web) Servers (see column 3 lines 44-46). In the instance the system comprises of two or more Web servers, the system would constitute a application since these Web servers together would provide a service, specifically a Web service, to client computers. Each server would constitute an element of the system or application. Examiner maintains rejection.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emerson C Puente whose telephone number is (703) 305-8012. The examiner can normally be reached on 8-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert W Beausoliel can be reached on (703) 305-9713. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5631.

Emerson Puente
6/9/04

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